

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GRACIELA R. GARCIA,
Plaintiff,

v.

BIG LOTS STORES, INC.,
Defendant.

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§
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§
§

CIVIL ACTION NO. 4:21-cv-00837
JURY TRIAL DEMANDED

DEFENDANT'S INDEX OF MATTERS BEING FILED

Defendant Big Lots, Inc. files this Index of Matters Being Filed pursuant to Local Rule 81 of the Southern District of Texas, as follows:

- (1) All Executed Process:
 - Civil Process Request Form for Big Lots, Inc.
 - Citation and Affidavit of Service
- (2) All State Court Pleadings:
 - Plaintiff's Original Petition filed February 9, 2021
 - Defendant's Original Answer filed March 8, 2021
- (3) State Court Docket Sheet
- (4) List of all Counsel of Record

EXHIBIT 1

CIVIL PROCESS REQUEST

CASE NUMBER: 2021CVF000276D2
CURRENT COURT: _____

TYPE OF INSTRUMENT TO BE SERVED: Plaintiff's Original Petition

FILE DATE OF MOTION:

SERVICE TO BE ISSUED ON:

1. NAME: Big Lots Stores, Inc.
ADDRESS: 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218
AGENT: Corporation Service Company d/b/a CSC-Lawyers
Incorporating Service Company
TYPE OF SERVICE: Citation
SERVICE BY: **Private process service: AFTER CITATION HAS
BEEN COMPLETED, PLEASE RETURN THEM TO
OUR OFFICE VIA EMAIL AT eserviceRJN@nava-
lawgroup.com SO THAT SERVICE CAN BE
PERFECTED.**

.....
ATTORNEY REQUESTING SERVICE:

**Richard Jason Nava, Nava Law Group, P.C., 4909 Bissonnet St., Suite 100,
Bellaire, Texas 77401, 713/661-9900, 713/666-5922 Facsimile,
eserviceRJN@nava-lawgroup.com**



ABEL SOLIZ
CIVIL COURT COORDINATOR
(956)523-4226

MONICA Z. NOTZON
JUDGE, 111TH DISTRICT COURT
1110 VICTORIA SUITE #301 3RD FLOOR
LAREDO, TEXAS 78040
OFFICE (956)523-4230
FAX (956)523-5088

FERNANDO RAMOS
BAILIFF
(956)523-4227

February 10, 2021

CAUSE NO.: 2021CVF000276D2

STYLE: GRACIELA R. GARCIA
VS
BIG LOTS STORES, INC.

NOTICE OF CALENDAR CALL

Please take notice that this case is set for Calendar Call on 05/10/2021
at 11:00 AM at the 111th District Court, 3rd Floor, Webb County Justice Center.

All Calendar Call hearings will be in open Court and on the record before the Honorable Judge Monica Z. Notzon. Your presence is **MANDATORY** unless Counsel for Plaintiff(s) and Defendant(s) have in place a pre-trial guideline order with both Counsel and Judge's signatures prior to calendar call date. This guideline order should have all appropriate dates including pre-trial, jury selection and all deadlines.

Counsel for Plaintiff(s) please note that if you do not appear for calendar call your case may be dismissed for lack of prosecution.

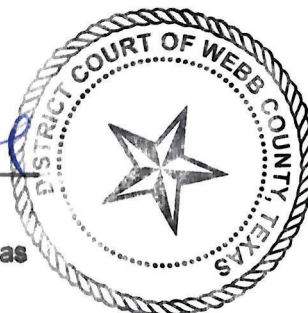
Counsel for Defendant(s) please note that if you do not appear for calendar call, a pre-trial guideline order may be entered with or without your approval and/or signature.

If there are any questions regarding this matter please feel free to call our office at any time.

A handwritten signature in blue ink, appearing to read "Abel Soliz".

Civil Court Coordinator
111th District Court

A True copy of the original. I certify.
the 10 day of March, 2021
ESTHER DEGOLLADO
Clerk of the District Courts and
County Court at Law, Webb County, Texas
By [Signature] Deputy



MEMORY TRANSMISSION REPORT

TIME : 02-12-2021 11:29
FAX NO.1 :
NAME :

FILE NO. : 730
DATE : 02.12 11:26
TO : 917136665922
DOCUMENT PAGES : 1
START TIME : 02.12 11:29
END TIME : 02.12 11:29
PAGES SENT : 1
STATUS : OK

SUCCESSFUL TX NOTICE



ADEL SOLIS
CIVIL COURT COORDINATOR
(956) 523-4224

MONICA Z. NOTZON
JUDGE, 111TH DISTRICT COURT
1110 VICTORIA SUITE #301 3RD FLOOR
LAREDO, TEXAS 78040
OFFICE (956) 523-4230
FAX (956) 523-5055

FERNANDO RAMOS
CLERK
(956) 523-4227

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ADEL SOLIS
Civil Court Coordinator
111th District Court


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Civil Court Coordinator
111th District Court

A True copy of the original. I certify.
the 9 day of March, 2021
ESTHER DEGOLLADO
Clerk of the District Courts and
County Court at Law, Webb County, Texas
By [Signature] Deputy



MEMORY TRANSMISSION REPORT

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(956) 523-4224

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(956) 523-4227

CAUSE NO.: 2021CVF000276D2

February 10, 2021

STYLE: GRACIELA R. GARCIA
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Counsel for Defendant(s) please note that if you do not appear for calendar call, a pre-trial guideline order may be entered with or without your approval and/or signature.

If there are any questions regarding this matter please feel free to call our office at any time.


Adela Solis
Civil Court Coordinator
111th District Court

EXHIBIT 2

Filed
2/9/2021 4:03 PM
Esther Degollado
District Clerk
Webb District
Diana Vela
2021CVF000276D2

NO. 2021CVF000276D2

GRACIELA R. GARCIA § IN THE DISTRICT COURT OF
§
§
VS. § WEBB COUNTY, TEXAS
§
§
BIG LOTS STORES, INC., § _____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION, JURY DEMAND
AND REQUEST FOR DISCLOSURES**

TO THE HONORABLE COURT:

COMES NOW GRACIELA R. GARCIA, Plaintiff, in the above entitled and numbered cause, complaining of and against BIG LOTS STORES, INC., Defendant herein, and for cause of action would respectfully show unto the Court and Jury the following:

A. DISCOVERY CONTROL PLAN

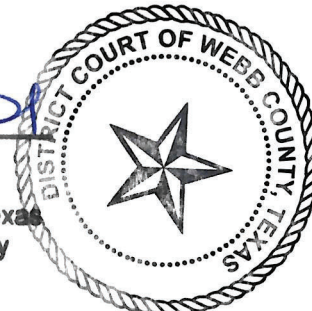
1. Pursuant to Rule 190.4 of the Texas Rules of Civil Procedure, Plaintiff, GRACIELA R. GARCIA requests a Level 3 discovery control plan.

B. PARTIES

2. GRACIELA R. GARCIA is an individual residing in Webb County, Texas.

3. Defendant BIG LOTS STORES, INC. is a Foreign For-Profit Corporation doing business in the State of Texas and may be served with service of process by serving its Registered Agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218, or wherever it may be found.

A True copy of the original. I certify.
the 9 day of March, 2021
ESTHER DEGOLLADO
Clerk of the District Courts and
County Court at Law, Webb County, Texas
By: [Signature] Deputy



C. JURISDICTION AND VENUE

4. Venue is proper in Webb County, Texas, pursuant to Tex. Civ. Prac. & Rem. Code §15.001 *et seq.* because all or a substantial part of the events or omissions giving rise to the claims arose in Webb County, Texas. This Court has jurisdiction over the parties and subject matter hereof.

D. FACTS

5. At all times material hereto, Defendant was the owner, manager, operator and/or occupier of the premises in question, specifically the premises known as BIG LOTS, located at 7807 San Dario Ave., Laredo, Webb County, Texas. At all times material hereto, Defendants were in control of said premises.

6. Whenever it is alleged in this Petition that Defendant did or failed to do any act or thing, it is meant that such commission or omission was performed or omitted by any agents, servants, representatives, employees and/or managers of Defendant, and that in each instance the agents, servants, representatives, employees and/or managers were then acting for and on behalf of Defendant and within the course and scope of his/her employment or within the authority delegated to him/her by Defendant.

7. On or about March 27, 2020, while on Defendant's premises, BIG LOTS, located at 7807 San Dario Ave., Laredo, Webb County, Texas, Plaintiff GRACIELA R. GARCIA suffered serious and permanent bodily injuries as a direct result of an occurrence caused by Defendant's negligent activity and/or a dangerous condition on the Defendant's premises that Defendants and/or its respective agents, servants and employees knew, or in the exercise of ordinary care should have known existed. Specifically, Plaintiff fell from a chair that was not secured by an employee. The incident and Plaintiff's resulting injuries and damages were directly and

proximately caused by Defendant's negligence and/or a defective condition on Defendant's premises. At all times material hereto, Plaintiff was an invitee on Defendant's premises.

E. NEGLIGENCE/PREMISES LIABILITY.

8. The condition described above was negligently created and/or allowed to exist by Defendant, and Defendant negligently allowed it to persist without correcting it or adequately warning the public, including Plaintiff, of its presence. Defendant was negligent in one or more of the following particulars, each of which, separately and/or concurrently, was a proximate cause of the occurrence in question and Plaintiff's resulting injuries and damages:

- a. In negligently failing to provide Plaintiff a safe place to shop;
- b. In negligently permitting a dangerous condition to exist in the area of the premises where Plaintiff was shopping;
- c. In negligently permitting a dangerous condition to exist in the area of the premises where Plaintiff was shopping for an unreasonable amount of time;
- d. In failing to inspect the area of the premises where the incident occurred to ensure its safety to store patrons/invitees, including Plaintiff;
- e. In failing to perform adequate, regular and/or timely inspections of the area of the premises where the incident occurred to ensure its safety to store patrons/invitees, including Plaintiff;
- f. In failing to adequately maintain the premises in question in a reasonably safe condition;
- g. In failing to adequately and timely remove or remedy the dangerous condition as described above;
- h. In failing to properly supervise and train its employees with regard to proper inspection of the premises for the existence of dangerous conditions such as the one described above;
- i. In failing to properly supervise and train its employees with regard to proper and timely removal of dangerous conditions, such as the one described above, existing on Defendant's premises;

- j. In failing to follow Defendant's own policies with regard to inspection of the premises in question for dangerous conditions existing on Defendant's premises;
 - k. In failing to adequately warn Plaintiff of the unreasonably dangerous condition described above;
 - l. In failing to prevent the unreasonably dangerous condition described above from occurring or existing;
 - m. In permitting the unreasonably dangerous condition described above to exist when Defendant knew or should have known of its existence and that it posed an unreasonable risk of bodily harm;
 - n. In failing to warn or make the condition safe for invitees and not placing objects in unsafe locations and not making sure they are properly secure for all invitees to try; and
 - o. In failing to exercise reasonable care to reduce or eliminate the risk posed by the unreasonably dangerous condition described above.
9. Defendant had actual or constructive knowledge of the unreasonably dangerous condition described above and that it posed an unreasonable risk of bodily injury.
10. In the alternative, Defendant reasonably should have known of the existence of and dangers posed by the unreasonably dangerous condition described above.
11. Nothing Plaintiff did or failed to do caused or contributed to cause the incident in question or her resulting injuries and damages.
12. Defendant's negligence described above directly and proximately caused the incident in question and Plaintiff's resulting injuries and damages.

F. RESPONDEAT SUPERIOR

13. The person and/or persons who worked in the Defendant's premises were agents, servants and/or employees of Defendant and were acting within the course and scope of their employment and in furtherance of Defendant's business when Plaintiff was at BIG LOTS. As

Such Defendant BIG LOTS STORES, INC., is responsible for the conduct due to the master-servant relationship which existed, and under the doctrine of Respondeat Superior.

G. NO CONTRIBUTION

14. Plaintiff, GRACIELA R. GARCIA, would show that nothing she did, or failed to do, in any way contributed to this accident.

H.. DAMAGES

15. Due to the occurrence made the basis of this suit and the negligence of Defendant as set forth above, the Plaintiff sustained significant physical and debilitating injuries. Said elements of damage which Plaintiff seeks to recover from the Defendant include compensation for the following:

- a. The physical pain and disability sustained by Plaintiff from date of injury to the time of trial;
- b. Future physical pain and disability reasonably anticipated to be sustained by Plaintiff in the future;
- c. Mental anguish and suffering sustained by Plaintiff from date of injury to time of trial;
- d. Mental anguish and suffering which is reasonably anticipated to be suffered by Plaintiff in the future;
- e. Loss of earnings sustained by Plaintiff from date of injury to time of trial;
- f. Loss of earnings and earning capacity reasonably anticipated to be suffered by Plaintiff in the future;
- g. Reasonable and necessary medical expenses incurred by Plaintiff in the treatment of Plaintiff's injuries from date of injury to time of trial;
- h. Reasonable and necessary medical expenses reasonably anticipated to be sustained by Plaintiff in the future for treatment of Plaintiff's injuries;
- i. Past and future physical disfigurement; and
- j. Past and future physical impairment.

16. As such, Plaintiff affirmatively pleads that she seeks only monetary relief of \$250,000.00 or less.

I. REQUEST FOR JURY TRIAL

17. Plaintiff requests a jury trial.

J. PRE-EXISTING INJURY

18. In the alternative, Plaintiff, GRACIELA R. GARCIA, would show that if any injury and/or condition from which she currently suffers was pre-existing, then such condition was aggravated, exacerbated, and/or made worse by the negligence of the Defendant herein.

K. SUBSEQUENT INJURY

19. In the alternative, Plaintiff, GRACIELA R. GARCIA, would show that if she suffers from any subsequent injury and/or condition then such injury and/or condition was aggravated and/or exacerbated by the negligence of the Defendant herein.

L. REQUEST FOR DISCLOSURE

20. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, you are hereby requested to disclose, within fifty (50) days of service of this document, the information or material described below. Please serve your responses on counsel representing this Plaintiff, and produce true and correct copies of all documents and other tangible items with your responses, in accordance with Rule 194.4.

21. Plaintiff requests disclosure of the following, pursuant to Rules 194.2:

- (1) the correct names of the parties to the lawsuit;
- (2) the name, address, and telephone number of any potential parties;
- (3) the legal theories and, in general, the factual bases of Defendant's claims or defenses;
- (4) the amount and any method of calculating economic damages;

- (5) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;
- (6) A copy-or a description by category and location-of all documents, electronically stored information, and tangible things that the Defendant has in its possession, custody or control, and may use to support its claims or defenses, unless the use would be solely for impeachment;
- (7) any indemnity and insuring agreements described in Rule 192.3(f);
- (8) any settlement agreements described in Rule 192.3(g);
- (9) any witness statements described in Rule 192.3(h);
- (10) in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills;
- (11) in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party; and.
- (12) the name, address, and telephone number of any person who may be designated as a responsible third party.

M. SPOILIATION

22. Defendant hereby requested to retain any and all witness statements, incident reports, photographs, facsimiles, email, voice mail, text messages, and any electronic image or information related to the referred incident and all investigative materials associated with this claim, together with all surveillance tapes/video of the premises on the date of this incident. Plaintiff further requests Defendant provide a copy of the surveillance video.

N. PRAYER

23. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Defendant be cited to appear and answer herein, and that upon final trial hereof, Plaintiff recover from said Defendant, a sum only of \$250,000.00 or less, costs of Court, pre-judgment and post-judgment interest at the

legal rate, and for any and all further relief, both general and special, legal and equitable to which Plaintiff may be justly entitled.

Respectfully submitted,

NAVA LAW GROUP, P.C.

s. Richard Jason Nava

RICHARD JASON NAVA

SBN: 24083552

2107 Shiloh Drive

Laredo, Texas 78405

(956)226-4230 Telephone

(713) 666-5922 Facsimile

Email: eserviceRJN@nava-lawgroup.com

ATTORNEY FOR PLAINTIFF

49193.76

Filed
3/8/2021 4:25 PM
Esther Degollado
District Clerk
Webb District
Yesenia Rodriguez
2021CVF000276D2

CAUSE NO. 2021CVF000276D2

GRACIELA R. GARCIA,

Plaintiff,

V.

BIG LOTS STORES, INC.,

Defendants.

§ IN THE DISTRICT COURT OF
§
§
§
§ 111TH JUDICIAL DISTRICT
§
§
§
§ WEBB COUNTY, TEXAS

**DEFENDANT BIG LOTS STORES, INC.'S ORIGINAL ANSWER
AND VERIFIED DENIAL**

COMES NOW, BIG LOTS STORES, INC. ("Defendant", incorrectly named and an improper party), and files its Original Answer and Verified Denial as follows:

**I.
VERIFIED DENIAL**

Defendant specifically denies, pursuant to Rule 93(4) of the TEXAS RULES OF CIVIL PROCEDURE, that Defendant has any liability and/or interest in the incident that forms the basis of Plaintiff's lawsuit and said denial is supported by verification herein. Furthermore, Defendant denies that it is a proper party to this lawsuit and hereby challenges this Court's jurisdiction over them.

**II.
GENERAL DENIAL**

Subject to and without waiving the foregoing Verified Denial, and in the alternative, Defendant denies each and every, all and singular, material allegations contained within Plaintiff's pleadings and any amendments or supplements thereto and demands strict proof thereof in accordance with the Texas Rules of Civil Procedure.

A true copy of the original, I certify,
the 9 day of March, 2021
ESTHER DEGOLLADO
Clerk of the District Courts and
County Court at Law, Webb County, Texas
By: [Signature] Deputy Clerk



III.
SPECIAL EXCEPTION

Defendant specially excepts to Plaintiff's Original Petition and the assertions and causes of action against it are improper because this Defendant is the wrong party – and not a merely misnomer for the correct party. Thus, there is a defect in the parties.

IV
NOTICE OF INTENT TO USE DISCOVERY

Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Defendant hereby give actual notes to Plaintiff that any and all documents produced by Plaintiff may be used against Plaintiff at any pretrial proceeding or at the trial of this matter without the necessity of authenticating the documents.

WHEREFORE, PREMISES CONSIDERED, BIG LOTS STORES, INC. prays that Plaintiffs take nothing by this suit, that Plaintiffs be required to pay Defendant's costs, and for such other and further relief, both general and special, at law and in equity, to which Defendant may show itself justly entitled.

Respectfully submitted,

MAYER LLP
750 N. St. Paul Street, Suite 700
Dallas, Texas 75201
214.379.6900 / Fax 214.379.6939

By: /s/ Zach T. Mayer
Zach T. Mayer
State Bar No. 24013118
zmayer@mayerllp.com
Sara Krumholz
State Bar No. 24060579
skrumholz@mayerllp.com

ATTORNEYS FOR DEFENDANT
BIG LOTS STORES, INC.

CERTIFICATE OF SERVICE

This is to certify that on the 8th day of March 2021, a true and correct copy of the foregoing has been forwarded to all counsel of record as follows:

Via E-File

Richard Jason Nava

NAVA LAW GROUP, P.C.

2107 Shiloh Drive

Laredo, Texas 78405

eserviceRJN@nava-lawgroup.com

Attorney for Plaintiffs

/s/ Zach T. Mayer

Zach T. Mayer

VERIFICATION

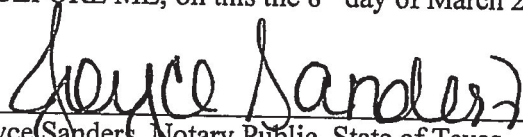
STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared **ZACH T. MAYER** who, being by me duly sworn upon his oath, deposed and stated that he is duly qualified and authorized in all respects to make this verification on behalf **BIG LOTS STORES, INC.** that he has read the above and foregoing Original Answer and Verified Denial and that the factual statements contained in Section II of the Original Answer are within his personal knowledge and are true and correct.



ZACH T. MAYER

SWORN TO AND SUBSCRIBED TO BEFORE ME, on this the 8th day of March 2021.



Joyce Sanders, Notary Public, State of Texas

My Commission Expires: 8/7/2024



Printed Name of Notary

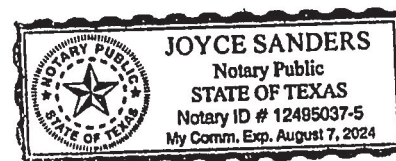


EXHIBIT 3

REGISTER OF ACTIONS**CASE No. 2021CVF000276D2****GRACIELA GARCIA, Graciela Garcia VS. BIG LOTS STORES, INC.**§
§
§
§
§Case Type: **Injury or Damage - Other Injury or Damage (DC)**
Subtype: **Other Injury or Damage (DC)**
Date Filed: **02/09/2021**
Location: **--111th District Court****PARTY INFORMATION**

		Attorneys
Defendant	BIG LOTS STORES, INC.	
Plaintiff	GARCIA, GRACIELA R.	RICHARD JASON NAVA <i>Retained</i> 713-661-9900(W)
Plaintiff	Garcia, Graciela R.	RICHARD JASON NAVA <i>Retained</i> 713-661-9900(W)

EVENTS & ORDERS OF THE COURT

		OTHER EVENTS AND HEARINGS
02/09/2021		Civil Case Filed (OCA)
02/09/2021		Original Petition <i>PLAINTIFF'S ORIGINAL PETITION. (DV)</i>
02/09/2021		Jury Demand <i>JURY DEMAND REQUESTED AND PAID BY ATTORNEY RICHARD JASON NAVA. (DV)</i>
02/10/2021		Calendar Call <i>CALENDAR CALL FAXED TO ATTORNEY (EA)</i>
02/10/2021		Citation-Issuance <i>TWO CITATIONS ISSUED-HELD BY CLERK PENDING COPIES AND S.A..S.E. (EA) CITATION WITH PETITION MAILED TO NAVA LAW GROUP, PC ON 3/9/21 (YR)</i>
02/10/2021		Citation BIG LOTS STORES, INC. Unserved
03/02/2021		Atty Request - Copies <i>LETTER FROM ATTORNEY RICHARD JASON NAVA- REQUESTING COPY</i>
03/08/2021		Answer-Defendant <i>DEFENDANT BIG LOTS STORES, INC.'S ORIGINAL ANSWER AND VERIFIED DENIAL</i>
03/09/2021		Letter <i>LETTER FROM ATTORNEY SARA KRUMHOLZ DATED 03/08/21 RE: REQUEST AND PAYMENT FOR COPIES</i>
05/10/2021		Calendar Call (11:00 AM) (Judicial Officer Notzon, Monica Z.)

EXHIBIT 4

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GRACIELA R. GARCIA,
Plaintiff,

v.

BIG LOTS STORES, INC.,
Defendant.

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CIVIL ACTION NO. 4:21-cv-00837
JURY TRIAL DEMANDED

DEFENDANT'S LIST OF ALL COUNSEL OF RECORD

Defendant BIG LOTS STORES, INC. files this List of Counsel pursuant to Local Rule 81 of the Southern District of Texas as follows:

A list of all counsel of record, including addresses, telephone numbers and parties represented.

Counsel for Plaintiff

Graciela R. Garcia

Richard Jason Nava

2107 Shiloh Drive

LAREDO, TEXAS 78405

Telephone: 956.226.4230

Counsel for Defendant

Big Lots Stores, Inc.

Zach T. Mayer, *Attorney-in-Charge*

Sara J. Krumholz

MAYER, LLP

750 North Saint Paul Street, Suite 700

Dallas, Texas 75201

Telephone: 214.379.6900